



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

September 14, 2005

SUBJECT: **2005-0780** – Application on a 3,125 square-foot site located at **127 South Murphy Avenue** (near E. Evelyn Ave) in a DSP-2 (Downtown Specific Plan/Subdistrict 2) Zoning District

Motion **Special Development Permit** on a 3,125 square-foot site to add an outdoor barbecue and beer and wine sales (alcohol service) to an existing business.

REPORT IN BRIEF

Existing Site Conditions Existing retail tenant space within a multi-tenant commercial building.

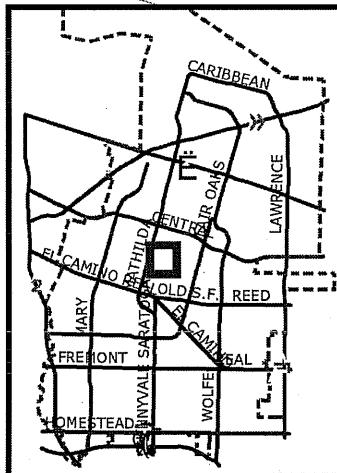
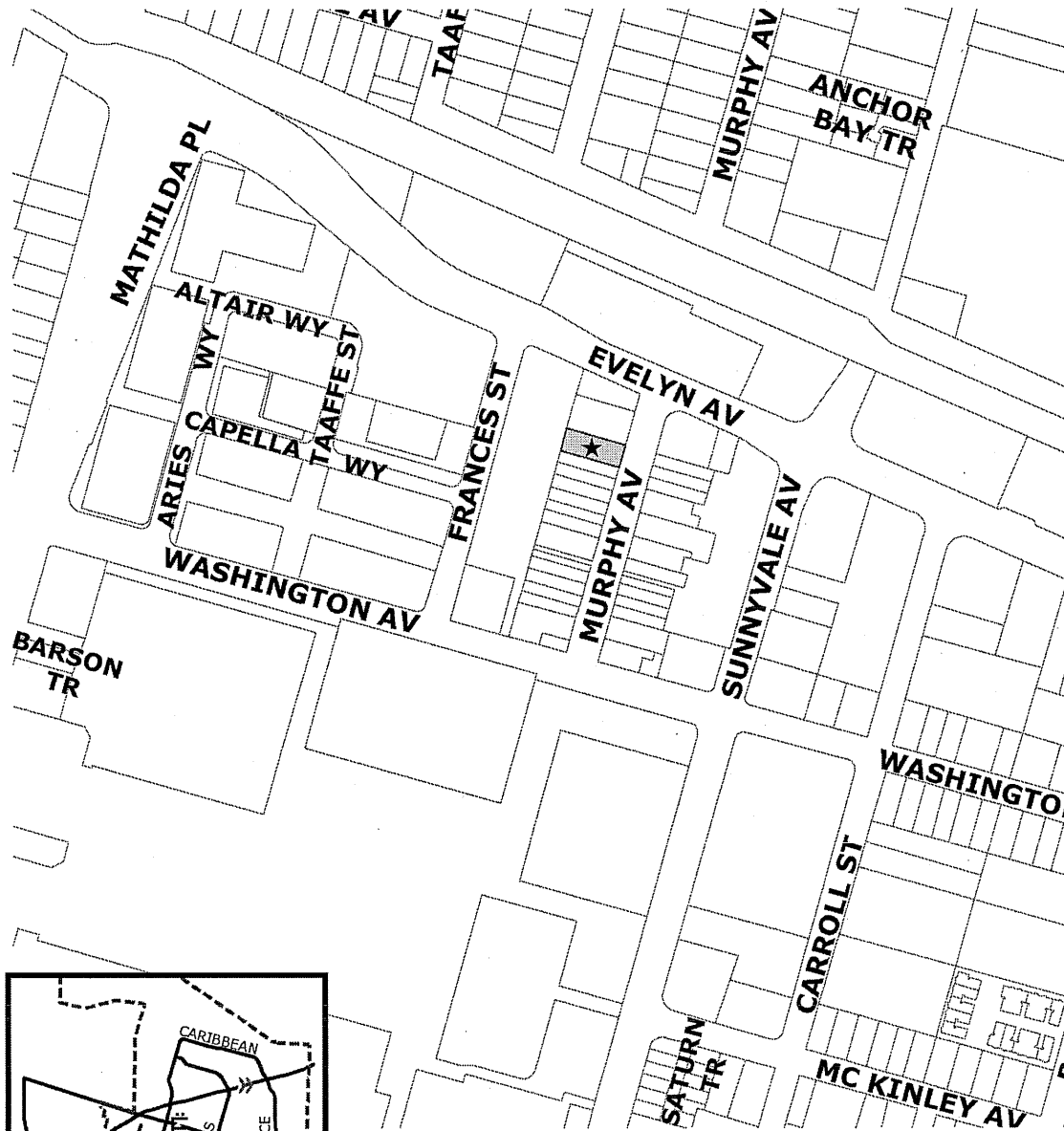
Surrounding Land Uses

North	Commercial
South	Commercial
East	Commercial
West	Parking lot

Issues Liquor Sales and On-site Consumption

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve with conditions



**127 South Murphy Avenue
Use Permit**

0 220 440 880 Feet



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Downtown Specific Plan	Same	Downtown Specific Plan
Zoning District	DSP, Block 2	Same	DSP, Block 2
Lot Size (s.f.)	3125	Same	No Min.
Gross Floor Area (s.f.)	6,250	Same	No Max.
Gross Floor Area of Tenant	906	Same	No Max.
Floor Area Ratio (FAR)	2.0	Same	No Max.
Setbacks (Facing Property)			
Front	0'	Same	0'
Side	0'	Same	0'
Rear	0'	Same	0'
Parking			
Total Spaces	Project located in Downtown Parking District	Same	N/A

ANALYSIS**Description of Proposed Project**

The initial application proposed outdoor cooking and liquor (beer and wine) sales. However, after further review and analysis of the outdoor cooking impacts, the applicant decided to withdraw that request for outdoor cooking and only include adding beer and wine sales to the existing retail space. In addition, the applicant will convert the store into a delicatessen. The delicatessen is a permitted use in the DSP-2 zoning district and is not a part of this application.

Background

Previous Actions on the Site: The original development of the building was prior to 1960 and the only planning permit of record for the tenant space was an approval for replacing the sign copy on the awning (file number 2005-0120).

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include modifications to existing facilities.

Special Development Permit

Detailed Description of Use: The proposed use includes sales and on-site consumption of beer and wine products for patrons over the age of 21. The applicant is proposing hours of operation on weekdays from 11:00 AM till midnight and weekends from 9:00 AM till midnight. The Department of Public Safety has reviewed the proposal and has only commented on the requirement of receiving a license from the Department of Alcoholic Beverages Control (ABC) for the beer and wine sales and consumption.

Currently the tenant space is configured for retail sales, eventually, it will be converted into a delicatessen. The site will contain some seating as well as continuing to have retail sales of deli and deli related products. No exterior modifications are proposed.

Site Layout: The location is on Murphy Avenue in the Downtown Area on block 2. It is surrounded by miscellaneous retail uses, including restaurants, retail and entertainment businesses. The subject tenant space service access occurs at the rear of the site and the tenant shares garbage facilities with the Taverna Restaurant, located at 133 S. Murphy Avenue. No site modifications are proposed.

Parking/Circulation: The tenant space is within the Downtown Parking District and no additional parking is required.

Compliance with Development Standards/Guidelines

Murphy Avenue Design Guidelines: Adding a beer and wine sales and on-site consumption at the shop on Murphy Avenue is consistent with the Guidelines and is appropriate and a desired use for the street.

Downtown Specific Plan: The project meets all Code requirements for the Downtown Specific Plan, Block 2 Zoning District. It is consistent with the following Specific Plan Policies:

Policy:

B.1 Encourage mixed uses throughout the downtown when consistent with the district character.

B.5 Promote opportunities for small independent businesses and merchants by creating sites for independent retail and entertainment venues.

The project adds a different use to the building, as there are offices, retail, and restaurants within the immediate area and the new use will provide a new business opportunity for the existing business that will help ensure a successful future.

Expected Impact on the Surroundings: The request to add beer and wine sales and consumption should not adversely impact the surrounding neighborhood. The project is located on Murphy Avenue, among other commercial uses, some of which also have alcoholic sales and consumption. In addition, the proposed hours of operation do not extend past midnight.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> Published in the <i>Sun</i> newspaper Posted on the site 13 notices mailed to property owners and residents adjacent to the project site 	<ul style="list-style-type: none"> Posted on the City of Sunnyvale's Website Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> Posted on the City's official notice bulletin board City of Sunnyvale's Website Recorded for SunDial

Staff has received one email from an interested party that is requesting that the application be denied. Issues brought up in the email include a concern over location of the barbecue facility, noise, drunkenness, refuse, cigarette smoke impacts, and the many other options for consuming beer and wine in the immediate area.

Conclusion

Discussion: In regards to the issues brought up by the interested party, the outdoor barbecue has been removed from the application, thus, this should no longer be a concern. Staff does not agree with the concern over beer and wine consumption and its associated impacts. While it is possible that patrons could become inebriated due to alcohol consumption, this is not a bar or a nightclub where a significant portion of the business is tied to alcohol. The main business will be a delicatessen. There are existing uses on Murphy Avenue that include beer and wine consumption, this request would be compatible with the existing uses in the area.

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Special Development Permit. Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Conditions of Approval are located in Attachment B.

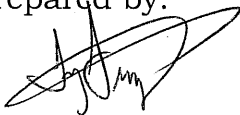
Alternatives

1. Approve the Special Development Permit with attached conditions found in Attachment B
2. Approve the Special Development Permit with modified Conditions of Approval.
3. Deny the Special Development Permit.

Recommendation

Alternative 1.

Prepared by:



Troy Fujimoto
Project Planner

Reviewed by:



Andrew Miner
Principal Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Letter from the Applicant
- E. E-mail from Interested Parties

Recommended Findings - Special Development Permit

Goals and Policies that relate to this project are:

Land Use and Transportation Element Policy C4.1 – *Maintain a diversity of commercial enterprises and industrial uses to sustain and bolster the local community.*

Land Use and Transportation Element Policy N1.13 – *Promote an attractive and functional commercial environment.*

Land Use and Transportation Element Policy N1.3 – *Support a full spectrum of conveniently located commercial, public, quasi-public uses that add to the positive image of the City.*

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project will add a complementary service that will help make the delicatessen a successful business. This will provide a compatible service to the surrounding commercial area.
2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as the alcoholic sales will be ancillary to the deli use and will help enhance the delicatessen by providing a complimentary use to the site.

Recommended Conditions of Approval - Special Development Permit /Use Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved by staff level by the Director of Community Development.
- B. The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.
- C. The Special Development Permit for the use shall expire if the use is discontinued for a period of one year or more.
- D. The Special Development Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.

2. RECYCLING AND SOLID WASTE

- A. All exterior recycling and solid waste shall be confined to approved receptacles and enclosures.
- B. The property shall remain clean and free of debris and garbage.

3. COMPLY WITH OR OBTAIN OTHER PERMITS

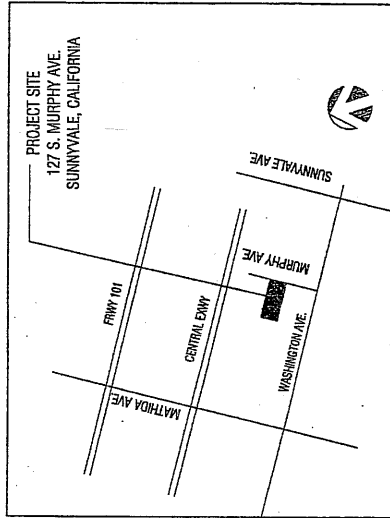
- A. Obtain approval from the Crime Prevention Division of Public Safety Department for crime prevention measures appropriate to the proposed development prior to issuance of a Building Permit.

4. MISCELLANEOUS

- A. The hours of operation hours for the business shall be 11:00 AM to 12:00 AM on weekdays and 9:00AM to 12:00AM on weekends.

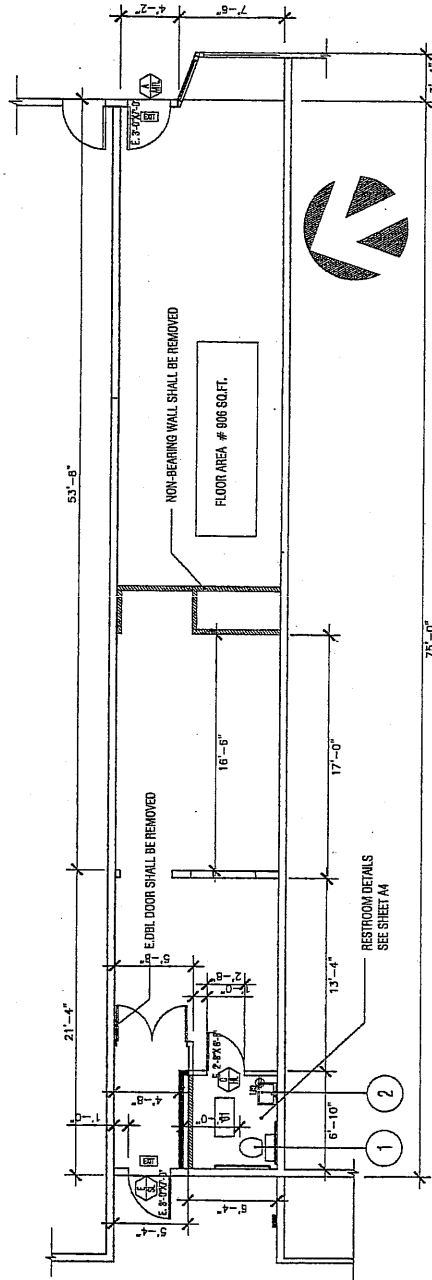
LOU LOU'S DELI & GOURMET SHOPPE

127 S. MURPHY AVE.
SUNNYVALE, CALIFORNIA 94806



VICINITY MAP/N.T.S.

E. BACK YARD TO
PUBLIC PARKING SPACE



EXISTING FLOOR PLAN

SCALE: 1/4" = 1'-0"

WALL LEGEND:

- EXISTING
- EXISTING SHALL BE REMOVE
- NEW CONSTRUCTION

ATTACHMENT C

Page 1 of 7

General Notes

TENANT IMPROVEMENTS FOR
LOU LOU'S DELI & GOUR SHOPPE
127 S. MURPHY AVE., SUNNYVALE 94086
TEL. (408) 733-5687

No.	Revision/Amend	Date

TEKCOL ENGINEERING & ASSOCIATES
ARCHITECTURAL / ENGINEERING / PLANNING
DESIGN SERVICES
3025 MAIN ST. SUITE 200, SAN JOSE, CA 95128
TEL. (408) 434-3433
FAX: (408) 434-3433
EMAIL: TEKCOL@AOL.COM

LOU LOU'S
DELI & GOURMET SHOPPE
127 S. MURPHY AVE.
SUNNYVALE, CA 94086

Project: REST-110704-02
Title: 07-18-2005
Scale: AS SHOWN
Sheet: A1
OF 07

E.GYB. BD. CEILING TO BE REMAIN
PROVIDE NEW SEMI-GLOSS PAINTING

E. F.J. 2ND. FLOOR

NEW 2X4 SUSPENDED CEILING
SEE DETAILS SHEET A4

NEW ORDERS/SERVICE
COUNTER 34" HT. REQUIRED

72" DELI CASE
96" DELI CASE

48" REF./2 DOOR

18" WID. S.S. SHELVING SYSTEM
MOUNTED TO EXISTING WALL TYP.

2-COMP. SINK
DISCHARGE TO FLOOR SINK
6" CERAMIC COVER BASE
W/ 5/8" RADIUS REQ'D.

9'-6" 4'-0" 8'-1" 6'-1" 2'-8" 36" MIN.

ELEVATION OF FOOD COUNTER SERVICES

SCALE: 1/2" = 1'-0"

2
A3

ATTACHMENT
Page 3 of 7

General Notes

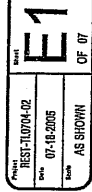
TENANT IMPROVEMENTS FOR
LOU LOU'S DELI & GOUR SHOPPE
127 S. MURPHY AVE., SUNNYVALE 94086
TEL. (408) 733-5687

No.	Revision/Issue	Date

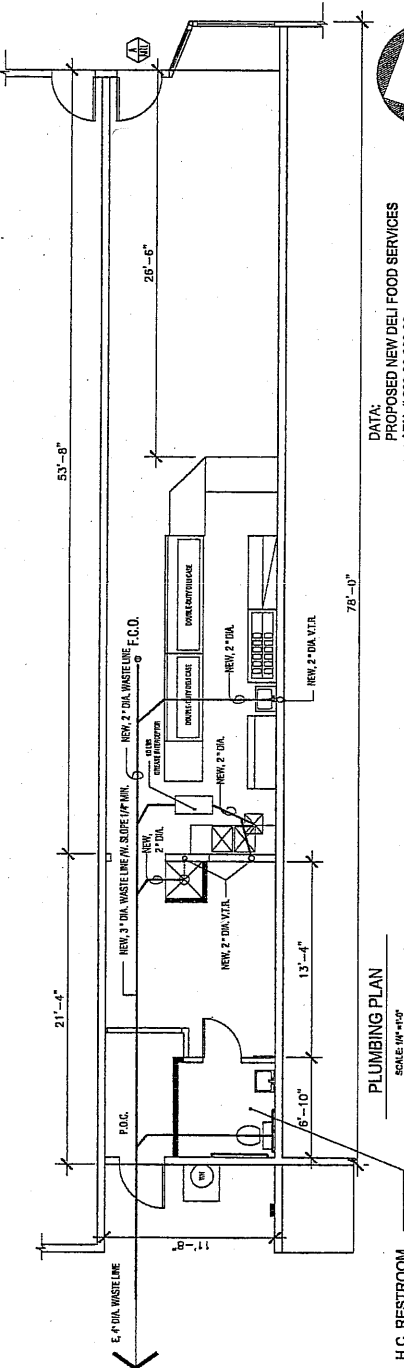
TERECOLE ENGINEERING & ASSOCIATES
ARCHITECTURAL DESIGN & PLANNING
3025 MAJIMA LN. #2 SAN JOSE, CA 95132
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LOU LOU'S
DELI & GOURMET SHOPPE
127 S. MURPHY AVE.
SUNNYVALE, CA 94086

Sheet
REST-110704-02
Date 07-18-2005
AS SHOWN
OF 07
A3



← MURPHY AVE. →



DATA:
PROPOSED NEW DELI FOOD SERVICES
APN # 2019-06-003-00

PLUMBING PLAN
SCALE: 1/4" = 1'-0"

H.C. RESTROOM
SEE SHEET A4



ATTACHMENT C
Page 7 of 7

General Notes

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TEL. (408) 733-5687

No.	Revision/Issue	Date

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LOU LOU'S
DELI & GOURMET SHOPPE
127 S. MURPHY AVE.
SUNNYVALE, CA 94086

Project: REST-10704-02
Date: 07-18-2005
Sheet: AS SHOWN
P1
OF 07

Date: August 25th, 2005

Subject: Change for Lou Lou's Deli & Gourmet Shoppe SDP Application (Sunnyvale)

I have decided to apply for beer and wine permit only. I will not be putting a BBQ pit in back of store.

Thanks,

Beatrice Ferns

From: Anne Dugan
To: <tfujimoto@ci.sunnyvale.ca.us>
Date: 9/7/2005 2:27:53 PM
Subject: File # 2005-0780

ATTACHMENT E
Page 1 of 1

Dear Mr. Fujimoto,

I am writing regarding File # 2005-0780, concerning application for a Special Development Permit at 127 S. Murphy Ave., to allow an outdoor barbecue and beer and wine service.

I have lived and worshiped in Sunnyvale for 17 years, and have been practicing acupuncture here for 10 years, the last 3 years at my current location at [redacted]. I am very happy in my business / residence situation. I enjoy being on Murphy Ave., and have developed good relations with my neighbors.

As an upstairs neighbor of the applicant, I am vehemently opposed to the granting of this permit. The proposed area of use is a communal space used by 6 businesses as a loading zone. Aside from this, it is at the foot of the stairs used by many of my patients as a back entrance to my practice. Because several of us have just put up a communal sign, I hope it will be used by many more patients. I find it unprofessional to have them weave their way through tables of barbecue and alcohol to reach my medical practice.

As a resident of the same location, I am thoroughly concerned about noise, drunkenness, refuse, & cigarette smoke filling my deck and residence.

The applicant has held a barbecue in the past, and my worst fears were actualized. In order to be a good neighbor, I said nothing to her then, because I thought it was a one time event. However, the thought of a permanent situation of this sort is intolerable.

Murphy Avenue has many places to drink beer & wine. I am strongly opposed to having another under my medical practice & my home.

Please deny a permit to 127 S. Murphy Ave. to allow a barbecue or beer and wine service.

In the event that you wish to contact me regarding this e-mail, you may reach me at this e-address, or at [redacted]

Thank you for your consideration in this matter.

Sincerely,
Anne R. Dugan, L.Ac.